

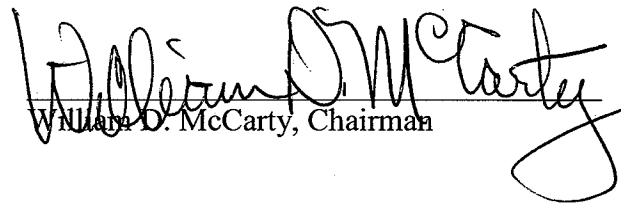
ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

Notice of Proposed Rulemaking  
Adoption of Rules RM #04-04  
LSA #04-268

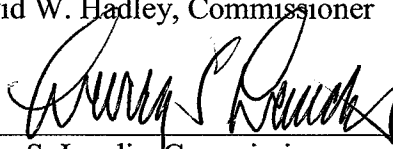
The Indiana Utility Regulatory Commission (the "Commission") hereby proposes to create new rules governing distribution system improvement charges (DSIC) in substantially the form attached upon prior publication and notice in accordance with the provisions of I.C. 4-22-2-1, et seq. The Commission shall hear public comments on the attached proposed rule on March 2, 2005 at 9:30 a.m. (local time) in Room E306 of the Indiana Government Center South, 302 W. Washington Street, Indianapolis, Indiana.

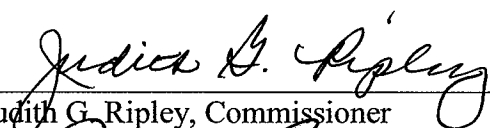
The Secretary of the Commission is hereby directed to maintain five (5) copies of the proposed rule continuously on file in the Commission Offices for public inspection, and forward two (2) copies of the attached proposed rule to the Indiana Legislative Services Agency publication in the Indiana Register.

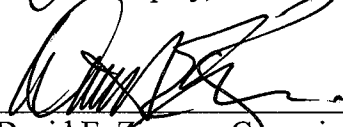
  
William D. McCarty, Chairman

Absent

David W. Hadley, Commissioner


  
Larry S. Landis, Commissioner

  
Judith G. Ripley, Commissioner

  
David E. Ziegner, Commissioner

ATTEST:

DEC 15 2004

  
Nancy Manley, Secretary to the Commission

Date:

**TITLE 170 INDIANA UTILITY REGULATORY  
COMMISSION**

**Proposed Rule  
LSA Document #04-268**

**DIGEST**

Adds 170 IAC 6-1.1 to create new rules governing distribution system improvement charges ("DSIC") allowed for water utilities under IC 8-1-31. Effective 30 days after filing with the secretary of state. Statutory authority: IC 8-1-1-3(g); IC 8-1-31-17.

**170 IAC 6-1.1**

SECTION 1. 170 IAC 6-1.1 IS ADDED TO READ AS FOLLOWS:

**Rule 1.1. Distribution system improvement charges ("DSIC")**

**170 IAC 6-1.1-1 Definitions**

**Authority:** IC 8-1-1-3; IC 8-1-31

**Affected:** IC 8-1-2; IC 8-1.5

**Sec. 1. The following definitions apply throughout this rule:**

- (a) "Commission" means the Indiana utility regulatory commission.
- (b) "Distribution system improvement charges" ("DSIC") means a distribution system improvement charge approved pursuant to IC 8-1-31.
- (c) "Distribution system" means distribution mains, valves, hydrants, service lines, meters, meter installation, and other appurtenances necessary to transport treated water from the point it exits the treatment facility to the point at which it is delivered to the customer.
- (d) "DSIC costs" means depreciation expenses and pretax return associated with eligible distribution system improvements.
- (e) "DSIC revenues" means utility revenues produced through a DSIC exclusive of revenues from all other rates and charges.
- (f) "Eligible distribution system improvements" means new used and useful water utility plant projects that:
  - (1) do not increase revenues by connecting the distribution system to new customers;
  - (2) are in service; and
  - (3) were not included in the public utility's rate base in its most recent general rate case.
- (g) "Municipally owned utility" includes every utility owned or operated by a municipality.
- (h) "Pretax return" for investor-owned utilities means:
  - (1) the revenue necessary to produce net operating income equal to the public utility's weighted cost of capital multiplied by the original cost of eligible distribution system improvements; and
  - (2) the revenue necessary to pay any state and federal income taxes applicable to such income.
- (i) "Pretax return" for a municipally-owned utility means:
  - (1) the average annual debt service associated with the distribution system improvement; or
  - (2) the return on plant pursuant to I.C. § 8-1.5-3-8 granted in its most recent rate case computed by multiplying the authorized return times the cost of eligible distribution system improvement.
- (j) "Public utility" means every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the production, delivery, or furnishing of water.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-1)*

**170 IAC 6-1.1-2 Applicability and scope**

**Authority:** IC 8-1-31-8

**Affected:** IC

**Sec. 2. (a)** These rules shall apply to any public utility or municipal utility that may now or hereafter be engaged in providing water service, subject to the jurisdiction of the commission, as defined in section 1 of this rule.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-2)*

**(b)** This rule shall in no way prohibit the recovery by a public utility or municipal utility of costs that meet the statutory criteria of Indiana Code § 8-1-3 *et seq.*, including costs not otherwise included under Accounts 331, 333, 334, or 335 of the National Association of Regulatory Utility Commissioners' Uniform System of Accounts for Water Utilities, provided that the costs for which recovery is requested were incurred in a project within the utility's existing distribution system and not in projects that connect to new customers.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-1)*

**170 IAC 6-1.1-3 Exemption**

**Authority:** IC 8-1-31-8

**Affected:** IC

**Sec. 3. (a)** A public utility or municipal utility may not file a petition under this section in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-3)*

**170 IAC 6-1.1-4 Filing**

**Authority:** IC 8-1-31-8

**Affected:** IC

**Sec. 4. (a)** The public utility or municipal utility shall file with the commission rate schedules establishing a DSIC that will allow the automatic adjustment of the public utility's basic rates and charges to provide for recovery of DSIC costs. Any petition filed to initiate a DSIC proceeding, which shall be deemed the public utility's case-in-chief, shall include as attachments any schedules, forms, testimony, exhibits, or other required supporting documentation as provided in section 5.

**(b)** The public utility or municipal utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission.

**170 IAC 6-1.1-5 Required supporting documentation**

**Authority:** IC 8-1-31-8

**Affected:** IC

**Sec. 5. (a)** The public utility or municipal utility shall submit the following supporting documentation for its petition to the commission:

**(1)** A description of the DSIC project, an explanation of why the project is needed, the benefits resulting to the utility and its customers upon completion of the project, and the age of the plant that was retired.

**(2)** A statement that the project is in service, and was not included in the public utility's rate base in its most recent general rate case. Provide the cause number and date of the public utility's most recent rate order.

**(3)** A statement that the project will not result in an increase in revenue resulting from the connection of new customers to the utility's distribution system.

**(4)** A statement that all necessary local, state and federal permits, approvals and authorizations applicable to the DSIC project have been obtained.

**(5)** A statement regarding whether any affiliate (as defined by IC 8-1-2-49) was directly or

indirectly engaged by the public utility in connection with the installation of the infrastructure that is the subject of the proposed DSIC and a copy of any such affiliated interest contract.

(6) A statement regarding whether the utility plans to replace other distribution infrastructure in the next five years and a general outline of any such plans.

(7) A new tariff reflecting the requested DSIC in the same format as the existing tariff on file with the commission, with clear denotations on all schedules where the DSIC rate is applicable.

(8) A statement that the utility has invoices and other cost support for every item included in the project cost form, and that the utility is prepared to file such invoices if required by the commission or requested by the office of utility consumer counselor.

(9) An affidavit from an officer of the utility attesting to the veracity of the statements and information submitted under this subdivision.

(b) By submitting documentation in compliance with subsection (a), the public utility makes a prima facie case for the eligibility of the improvements and the reasonableness of the charges.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-5)*

#### **170 IAC 6-1.1-6 Response**

**Authority:** IC

**Affected:** IC

Sec. 6. The office of utility consumer counselor or other intervening party may submit a report to the commission indicating its opposition to or support of each portion of the petition within thirty (30) days after the petition is filed. The office of utility consumer counselor may examine information of the public utility to determine whether the system improvements are in accordance with the requirements of section 1(g) of this rule, and whether the public utility properly calculated the proposed charges.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-6)*

#### **170 IAC 6-1.1-7 Hearing and order**

**Authority:** IC 8-1-31-9

**Affected:** IC

Sec. 7. (a) Except as provided in subsection (b) or for good cause shown, the commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(b) If, subsequent to the filing of its petition, the public utility files additional testimony or exhibits to supplement its case-in-chief, or for good cause shown, the commission may reset the 60-day hearing deadline established in subsection (a).

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-7)*